



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,318	12/31/2003	Scott R. Petersen	1001.1417102	1762

28075 7590 10/06/2005

CROMPTON, SEAGER & TUFTE, LLC  
1221 NICOLLET AVENUE  
SUITE 800  
MINNEAPOLIS, MN 55403-2420

EXAMINER
----------

BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
----------	--------------

3731

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/749,318	Applicant(s) PETERSEN, SCOTT R.	
	Examiner Jessica R. Baxter	Art Unit 3731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2004 and 03 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11222004.05032004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33-38, 41-53, and 56-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,132,458 to Staehle et al. in view of PG-PUB 2002/0052626 to Gilson et al.

Staehle discloses a method of loading a device into a delivery sheath, comprising the steps of: providing a loading tool (10) having a proximal end, a distal end, and a lumen extending therethrough; coupling the loading tool to the delivery sheath; immediately prior to inserting the device within the vasculature, urging the device toward the proximal end of the loading tool, causing the device to shift from an expanded configuration to a collapsed configuration (FIGS. 1 and 2); urging the device within the lumen of the delivery sheath; wherein the step of coupling the loading tool to the delivery sheath is accomplished by fitting the loading tool over the exterior surface of the sheath (Column 3 lines 66-67); wherein the loading tool is coupled to the delivery sheath by a friction fit over the exterior surface of the delivery sheath (Column 3 lines 30-31); wherein the loading tool further comprises a first inside diameter region proximate the distal region thereof (diameter at 17); wherein the loading tool further comprises a second inside diameter region proximate the

proximal end thereof (diameter of lumen between 16 and 19); wherein the inside diameter of the loading tool at the first outside diameter region is greater than the inside diameter of the loading tool at the second outside diameter region (FIGS. 1 and 2); wherein the loading tool further comprises a notched region (18) and a third inside diameter region (diameter at 16); wherein the inside diameter of the loading tool at the third inside diameter region and the outside diameter of the delivery sheath are substantially equal (FIG. 1); wherein the inside diameter of the loading tool at the second inside diameter region and the inside diameter of the delivery sheath are substantially equal (FIG. 1); further comprising the step of uncoupling the loading tool from the delivery sheath (Column 3 lines 8-10); wherein the step of uncoupling the loading tool from the delivery sheath results in the device being appropriately prepared for entry into a blood vessel (Column 3 lines 8-10); wherein the device is configured to be disposed within the distal end of the loading tool lumen in an expanded position (FIGS. 1 and 2); and wherein the step of urging the device toward the proximal end of the loading tool is performed after the step of coupling the loading tool to the delivery sheath.

Staehle discloses the claimed invention except for the device being loaded into a delivery sheath comprising a filter disposed about an elongated member. Gilson teaches that a filter device may be loaded into a delivery sheath by a funnel device (FIGS. 22, 30, 31(a), 32(a), 57-64). The two funnel devices (Staehle and Gilson) are alternate funnel devices that may be used to load expandable vascular devices into a constricted state in order to be able to deliver them to a site within the vasculature. It would have been obvious to one having ordinary skill in the art at the time the invention was made to load a filter into a delivery

Art Unit: 3731

sheath by the loading tool of Staehle since it is known in the art to load the filter into a compressed state with a funnel device.

3. Claims 39, 40, 54, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staehle et l. '458 in view of PG-PUB 2002/0052626 to Gilson et al.

Staehle, as modified, discloses the claimed invention except for the size of the inside diameter of the first and second outside diameter regions. It would have been obvious matter of design choice to change the size of the diameters, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R. Baxter whose telephone number is 571-272-4691. The examiner can normally be reached on M-F 8:30AM - 5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica R Baxter  
Examiner  
Art Unit 3731

  
jrb

  
**EDUARDO C. ROBERT**  
**PRIMARY EXAMINER**